

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DISTRICT

CHAD HOGAN,

Plaintiff,

vs.

CASE NO. 2:05CV687

CITY OF MONTGOMERY, et al.,

Defendants.

COPY

The DEPOSITION OF CHAD HOGAN was taken pursuant to notice before Sharon Meehan, as Court Reporter and Notary Public in and for the State of Alabama at Large, on the 29th day of March, 2006, at the Law Offices of Thomas, Means, Gillis & Seay, P.C., located at 3121 Zelda Court, Montgomery Alabama, commencing at approximately 9:11 a.m.

Sharon Meehan Court Reporting
Post Office Box 230302
Montgomery, Alabama 36123
Phone (334) 270-0242

DEFENDANT'S
EXHIBIT

1 car that night with three other people; is that
2 correct.

3 MR. NELMS: Object to the form.

4 A. Yes.

5 Q. One of them's name was Chris McBride;
6 is that correct?

7 A. Yes.

8 Q. One of them's name is Courtney Smith;
9 is that correct?

10 A. Correct.

11 Q. Who was the other person?

12 A. Mario.

13 Q. What's Mario's last name?

14 A. I don't really know him.

15 Q. Mr. Hogan, I'm going to ask you some
16 specific questions; but just in general, I want
17 you to tell me in as much detail as you can
18 everything you remember that happened that night
19 beginning from the first time you ever saw either
20 Chris McBride, Courtney Smith or Mario.

21 MR. NELMS: Object to the form.

22 Q. Okay.

23 A. I had just gotten in from work. I got

1 a call from Chris McBride.

2 Q. What time was that roughly?

3 A. Somewhere around between ten thirty --

4 Q. At night?

5 A. Yes. And he asked if I wanted to shoot
6 any pool. I told him yeah. So we met up around
7 by Jackson Street and went over to The Break
8 Room.

9 Q. Whose car were y'all in?

10 A. Mario's.

11 Q. Did you take your car out that night at
12 all?

13 A. Yeah, I had my car parked at the drop
14 where I keep my truck.

15 Q. And they came and picked you up there?

16 A. No. I drove over to Jackson Street.

17 Q. It was at somebody's house you left the
18 car at Jackson Street?

19 A. I just left it on the side of the road
20 in front of someone's house.

21 Q. Where is Jackson Street? I'm sorry, I
22 don't know where it is.

23 A. Jackson Street is right off High

1 Street.

2 Q. What area of Montgomery are we talking
3 about? Is it fairly close to the pool hall or is
4 it a ways off?

5 A. It's a ways off.

6 Q. That's good enough. Go ahead.

7 A. Okay. So we went over to the pool
8 hall, shot pool.

9 Q. How long were y'all at the pool hall
10 would you say?

11 A. We were there -- I guess I'd say about
12 maybe -- I don't know the exact time.

13 Q. That's all right. I'm asking just for
14 an estimate, best estimate, not holding you to
15 anything.

16 A. Maybe an hour.

17 Q. And y'all all left Jackson Street in
18 Mario's car, correct?

19 A. Yes.

20 Q. So after you left the pool hall, what
21 did you do then?

22 A. It was raining pretty hard, so we had
23 pulled the -- it's like a loan service, like

1 Nationwide or something. We pulled over there in
2 the parking lot. And we were sitting in the
3 parking lot, waiting for the rain to slack up.

4 While we were sitting there in the
5 parking lot, Mario had pull out a sack of weed
6 and started rolling it. And we all had poured
7 something to drink. So we were sitting there.
8 They were smoking a weed. I was drinking some
9 liquor.

10 And while we were sitting there, Arnaud
11 had pulled up to the store. Well, I guess that
12 was Arnaud.

13 Q. What kind of car was it?

14 A. It was an SUV.

15 Q. A black SUV?

16 A. Black or blue, something like that.

17 Q. Dark colored SUV?

18 A. Yes.

19 Q. All right.

20 A. So we were sitting there, waiting for
21 the rain to slack up. And he had pulled up in
22 front of the store, pulled up in front of the
23 store and sat there a while. Then he backed out

1 and went around to the back and stopped there.
2 Then he went back around to the front, stopped,
3 parked. He went in to the store. And he came
4 back out and left. And by that time, we was
5 getting ready -- after he left, we decided to
6 leave.

7 So instead of Mario going out toward
8 the street, he go toward the trailer park. And
9 by that time, we was inside the trailer park, the
10 K-9 unit had pulled up behind us. And so when
11 the K-9 pulled up behind us, we were steady
12 driving. Well, he was steady driving. We got
13 back to almost the back of the trailer park and
14 he hit his flasher lights. We was behind the
15 trailer park then.

16 So Mario was, like, he had warrants and
17 stuff; and he wasn't about to go to jail, so he
18 pulled off. So while he pulled off, the K-9 unit
19 was behind us. So we came out the trailer park,
20 came onto Wares Ferry Road, went going toward the
21 Atlanta Highway.

22 So while we was going toward the
23 Atlanta Highway, I was, like, man, stop, man.

1 Stop. He was, like, no, man, I can't go to
2 jail. So he turned off on two streets, two or
3 three streets and crashed the car.

4 By that time, I jumped out of the car.
5 And we all fled on feet.

6 Q. Then what happened?

7 A. And I had -- on the side of the
8 drainage ditch I was, like, in the bushes, hid
9 and the K-9 dog came down. I came out the bushes
10 with my hands up. And the K-9 -- somebody yelled
11 something on the other side of the drainage
12 ditch. I don't know what they said; but by the
13 time they said that, the dude unleashed the dog.

14 So I started running, jumped the
15 fence. Well, I jumped on the fence. The dog
16 grabbed my leg. So I jumped over the fence. I
17 tried to jump another fence. By that time, the
18 dog grabbed me. And the police apprehended me.

19 Q. Then what happened?

20 A. Then we went down to answer questions.

21 Q. Who questioned you?

22 A. Detective Pelham.

23 Q. Did anybody else question you besides

1 hall and Arnaud's Meats --

2 A. Uh-huh (indicating in the affirmative).

3 Q. -- how close was the car parked to the
4 building? When I say building, I mean Arnaud's
5 Meats.

6 A. Probably about forty yards.

7 Q. When the K-9 unit pulled in, where were
8 y'all parked, still in the same place?

9 A. No. When the K-9 unit pulled in, we
10 was in the truck part.

11 Q. You had already moved before the K-9
12 ever pulled in?

13 A. We had already moved. We was leaving.

14 Q. But you recognized that as a police
15 officer?

16 A. I didn't, but Mario did. I was sitting
17 in the back seat. I didn't know who was behind
18 us. And that's when he said K-9 was behind us.

19 MR. NELMS: You asked him when did the
20 K-9 unit pull into the parking lot. And his
21 response was basically when he became aware
22 that the K-9 unit was back there. He didn't
23 answer your question exactly. I mean, you

1 Q. Are you aware that Kirk Pelham has a
2 lawsuit pending against the City of Montgomery
3 right now?

4 A. Yes.

5 Q. How did you become aware of that?

6 A. When I found out about what had happen
7 to him.

8 Q. But how did you know he had a lawsuit
9 pending against the City of Montgomery? Who told
10 you that?

11 A. My lawyer.

12 Q. Mr. Hogan, let's go back to Exhibit 1,
13 which is your interrogatories. It's that right
14 there (indicating). On the last page, or the
15 next to the last page -- excuse me --
16 interrogatory number thirteen, I asked you:

17 In paragraph twenty-six of the
18 complaint, you allege that the City of Montgomery
19 has and maintains a policy, practice or custom by
20 which the city seeks to charge with a crime all
21 persons injured in encounters with police
22 officers employed by the city whether or not
23 there is probable cause to believe that a crime

1 has been committed. Please describe in detail
2 all evidence you have to support that such a
3 policy, practice or custom exists (reading).

4 You responded: The fact that you
5 wrongfully arrested me without probably (sic)
6 cause shows that there is a policy, practice or
7 custom exists (reading).

8 My question: Is your incident, the
9 incident that happened to you, your sole basis
10 for alleging that they have a policy or practice
11 or custom? Do you know of any other incidents
12 similar to yours that have happened?

13 A. No.

14 Q. Do you know anyone with personal
15 knowledge within the Montgomery Police Department
16 or that has personal knowledge associated with
17 the Montgomery Police Department that such a
18 policy, practice or custom exists?

19 A. No.

20 Q. Number fourteen asks you to state the
21 total amount of monetary loss which you allege
22 you incurred in the complaint and to provide an
23 itemized detail.

1 Q. Were you in the car while they were
2 smoking marijuana?

3 A. Yes.

4 Q. Were the others drinking?

5 A. Yes.

6 Q. Were they drinking vodka, also?

7 A. Yes.

8 Q. At the time of the incident, did you
9 know that Mr. McBride had a felony warrant out on
10 him?

11 A. Yes.

12 Q. How did you know --

13 A. What? A felony warrant?

14 Q. Did you know that he had a warrant out
15 for his arrest?

16 A. No.

17 Q. Did you know that this guy, Mario, had
18 warrants out for his arrest?

19 A. Yes. He said he did.

20 Q. Who had brought the marijuana?

21 A. Mario.

22 Q. Do you know if Mario has ever been
23 arrested?

1 represent the city, Chief Baylor and Major
2 West in this case.

3 EXAMINATION

4 BY MS. FEHL:

5 Q. You had mentioned earlier that you had
6 talked to Detective Pelham and to another
7 detective at police headquarters when they took
8 you down there; is that correct?

9 A. Correct.

10 Q. Okay. Can you describe that detective
11 to me?

12 A. Short, medium built, white. That's
13 probably about it.

14 Q. Did he have hair?

15 A. Yes.

16 Q. Did you ever talk to Chief Baylor or
17 Major West?

18 A. No, I don't think so.

19 Q. Have you talked to either one of them
20 since that night up until today?

21 A. No.

22 Q. And in your responses, you said that
23 you were in an Alabama correctional facility and

1 Q. Did you meet at his house?

2 A. No.

3 Q. You just met on the street and parked
4 your car and got in Mario's car?

5 A. Yes.

6 Q. Was that Mario's Lincoln?

7 A. Yes.

8 Q. Was Courtney with Mario at that point?

9 A. Yes.

10 Q. Okay. So you and Chris left your cars
11 there?

12 A. Uh-huh (indicating in the affirmative).

13 Q. And then got in the car with Courtney
14 and Mario; is that what happened?

15 A. Yes.

16 Q. So y'all left there and you said you
17 went to the breakers pool room?

18 A. The Break Room.

19 Q. The Break Room? Now, where is that?

20 A. It's on the Eastern Boulevard.

21 Q. Where on the Eastern Boulevard?

22 A. On the service road that runs beside
23 Arnaud's Meat Shop.

1 Q. So did you park at Arnaud's and go to
2 The Break Room or did you park in front of The
3 Break Room?

4 A. In front of The Break Room.

5 Q. Okay. When you were at The Break Room,
6 how long did y'all stay at the pool hall?

7 A. Approximately an hour. I'm not sure.

8 Q. Did you shoot pool?

9 A. Yes.

10 Q. One game, two games?

11 A. Two games.

12 Q. And then you got in your car at The
13 Break Room?

14 A. Yes.

15 Q. Then went down to Arnaud's?

16 A. When we got in the car, pulled out the
17 parking lot, it started raining heavy. He
18 couldn't see, so he pulled in the area where
19 Arnaud's Meat is.

20 Q. So it didn't start raining heavy until
21 you got in the car?

22 A. Yes.

23 Q. So you pulled right off?